



TERMS OF REFERENCE (TOR)

**APPOINTMENT OF A PANEL OF ATTORNEYS OF LEGAL
LAW FIRMS AS PER SPECIFIED CATEGORIES FOR
THIRTY-SIX (36) MONTHS
RFB-2023/2024-0001**

CLOSING DATE: 18 APRIL 2024 @12H00

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1. BACKGROUND TO PANSALB

- 1.1. The Pan South African Language Board is an entity of government under the Department of Sport, Arts and Culture, which promotes and supports the development of languages within South Africa.
- 1.2. The Board was established by national legislation with the exclusive mandate to promote and create conditions for the development and use of all official languages of the Republic of South Africa, including the KHOI, Nama, and San languages, as well as the South African Sign language.
- 1.3. The PanSALB has a Board that is the Accounting Authority that has to play a role within the Legal prescripts and exercise their fiduciary duties, however, these legal prescripts and fiduciary duties at an Operational level, are exercised within the ambit of the Chief Executive Officer (CEO).

2. OBJECTIVE OF THE BID

- 2.1. The objective of the bid is to appoint a panel of suitably qualified legal Firms to render Legal Services within various Legal Disciplines indicated in the scope of services. The duration of the ad hoc services will be thirty-six months (36) however, it should be noted that the appointed Legal Service Providers that form part of the panel will be awarded work on a rotational basis as and when Legal Services are required by the PanSALB.

3. SCOPE OF SERVICE

- 3.1. The prospective Law Firms must choose a category of specialization, in line with the firm's main area of expertise as tabulated here below:

CATEGORY	
1. General and Specific Litigations (Civil Law or Criminal Law)	4. General Legal Advice and Opinions
2. Commercial/Corporate Law and Governance	5. Contract Vetting, interpretation, and disputes
3. Labour Law	6. Patent and Trademark Law

DESCRIPTION OF SERVICES REQUIRED

Description:

APPOINTMENT OF A PANEL OF 5 (FIVE) OR MORE LAW FIRMS OF ATTORNEYS PER SPECIFIED CATEGORIES ON AN "AS AND WHEN BASIS", AT A FIXED RATE QUOTED FOR EACH YEAR FOR 36 MONTHS.

The Services will consist of:

Litigation:

Upon receiving a brief and instruction the appointed service provider shall prepare and represent the PanSALB in litigation cases where the PanSALB is Cited as a Plaintiff, Defendant or is an Applicant or

Respondent in the following areas of law:

- Contractual disputes,
- Administrative and Constitutional law,
- Sale and lease agreements,
- Debts, Claims Management and Collections, and
- Civil litigation of any nature.

Labour including:

- Upon receiving the brief and instruction the incumbent shall prepare and represent the PanSALB in all labour forums including CCMA, Labour Court, Supreme Court, or the Constitutional Court,
- Investigations of misconduct matters,
- Presiding over disciplinary matters, and
- Representation of the employer in disciplinary matters

General Legal Advice:

Provision of legal opinions inter alia, on the following areas of law but not limited to:

- Commercial Law,
- Contractual disputes,
- Administrative and Constitutional Law,
- Sale and lease,
- The general interpretation of Statutes,

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	<ul style="list-style-type: none"> • Labour Law, • PanSALB Act and regulations and any amendments, • Strategic Partnerships with National and International organisations. <p>Corporate Law provides advisory services relating to:</p> <ul style="list-style-type: none"> • Corporate Governance, • Code of Good Governance, e.g., King IV and King V, and • All legal prescripts, especially the Public Finance Management Act as it relates to the management of finances of Public Entities. <p>Contract Drafting, Vetting, Intellectual Property, Trademark, CopyRight and patent:</p> <ul style="list-style-type: none"> • Drafting of contracts, • Vetting of contracts, and • Interpretation of contractual provisions where disputes arise • Managing matters pertaining to- • Intellectual Property rights • Trademark, Copyright and Patent
Requirements	A minimum panel of (five) 5 Law Firm per category
	General and Specific Litigations (Civil Law or Criminal Law)
	Commercial/Corporate Law and Governance
	Labour Law
	General Legal Advice and Opinions
	Contract Vetting, interpretation, and disputes
	Patent, Copyright and Trademark Law
Pricing format	See paragraph 8- Which provides a detailed pricing format

4. EXPECTED OUTCOME AND DELIVERABLES

4.1. The Service Providers will be required to deliver as per the scope and brief on each matter that will be given as and when required.

- 4.2. Service Providers to demonstrate the ability to deliver the service within the required services within the set parameters and scope.
- 4.3. Demonstrate a proven track record concerning the services required; and
- 4.4. Demonstrate compliance with the PanSALB requirements and briefs submitted.

5. MONITORING THE PROGRESS OF THE SERVICE

- 5.1. The PanSALB shall monitor and evaluate the progress of the service delivery as per the deliverables outlined in the brief. The Appointed Service Providers are advised that their performance will be managed at various intervals as dictated by the concluded Service Level Agreement.

6. QUALITY ASSURANCE (REVIEW OF THE SERVICES)

- 6.1. The quality of the services will be managed via the approved brief.

7. INDEPENDENCY OF OBJECTIVES OF THE BIDDER STAFF

- 7.1. In carrying out the services, the approved Service Providers must ensure that their staffmembers maintain objectivity by remaining independent of the activities they execute.

8. PRICE

- 8.1. All pricing provided must be in line with the scope of service and inclusive of any applicable VAT. Reference to the Pricing Schedule.

Position	Rate Per Hour Year 1	Rate Per Hour Year 2	Rate Per Hour Year 3	Total Rate Over 3 years (To be used to evaluate price)
Senior Partner(s)/ Owner				
Director/ Managing Partner/ Managing Directors				

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Partner				
Senior Associate				
Junior Associate				
Candidate Attorney				
Rate per Kilometre for Travel cost. Disbursements will be Billed separately if, required				
Total (inclusive of Vat)				

N.B: The Annual Escalation Rate Should Be per projected Inflation figures by the Reserve Bank each year. such submitted rates will be fixed for the duration of the 36-month term.

8.2. When in a litigious matter the Law firm appointed on an ad hoc basis agrees to align itself with the relevant Forum Tariff scale that is applicable where the matter is being heard.

9. PREFERENCE POINT SYSTEM

9.1. The following preference point systems apply to this invitation to tender:

9.2.1. The 80/20 system for requirements with a Rand value of up to R50 000 000 (allapplicable taxes included).

9.2.2. Points for this tender shall be for:

- Price and
- Specific Goals

9.2.3. A maximum of 80 points is allocated for price on the following basis:

Points for this tender

80/20

$$P_s = 80 \left(1 - \frac{P_t - P_{min}}{P_{min}} \right)$$

Where

P_s = Points scored for the price of tender under consideration

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Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

9.2.4. A maximum of 20 points is allocated for specific goals on the following basis:

- Enterprise is Black Owned- **10 points.**
- Small, Medium and Micro Enterprises (SMEs)- **5 points**
- Woman Ownership- **5 points.**

9.2. The Points will be distributed and allocated where the firm displays the following:

9.2.1. Enterprise is Black Owned:

Description		Points allocated per category
1	Enterprise is 100% Black Owned	10 points
2	Enterprise is 51% Black Owned	5 points
3	Enterprise is less than 51% Black Owned	3 points
4	Enterprise is 0% Black Owned	0 Points

9.2.2. Small, Medium and Micro Enterprise (SMEs):

Description		Points allocated per category
1	Small firm	5 points
2	Medium size firm	3 points
3	Large firm	1 points

9.2.3. Small, Medium and Micro Enterprise (SMEs):

Description		Points allocated per category
1	100% Woman ownership	5 points
2	50% Woman ownership	3 points
3	25% Woman ownership	1 points

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10. PREFERENCE POINT SYSTEM

Mandatory Requirements			
Compliance Documentation	Minimum Submission Requirements	YES	NO
	Bidder must fully complete the Prescribed Standard Bidding Documentation		
	Bidder must be registered on the Central Supplier Database (CSD) or must submit proof of registration		
	Bidder must submit one (1) hard copy of the Compliant, Technical, and Price Proposal		
	Bidder must provide proof of a valid letter of good standing with the Legal Practice Council		
	Bidder must provide proof of a valid Fidelity Fund Certificate		
	Bidder must provide proof of a valid Admission Certificate to the relevant Law Society and a valid Current Membership		
Failure to adhere to the Mandatory requirements will result in the disqualification of the bidder.			
Technical Evaluation: The Technical threshold for this bid is 80 points. Bidders that fail to meet the 80-point technical threshold, will not be evaluated on Price.			
Technical Evaluation			

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Criteria	Evidence Required	Max score	Points Allocation
Experience and Expertise			
Understanding of the regulatory framework applicable to the related area(s) of specialization and experience in providing legal services to an organ of state (The Firm)			
Experience and understanding of Legislative and Regulatory requirements	<ul style="list-style-type: none"> ▪ Bidder must demonstrate extensive experience and understanding of the legislative and regulatory framework applicable to the related areas of expertise indicated in the scope of services. This the bidder must do by submitting a full company profile and certificates to indicate the firm's incorporation date and various affiliates' profiles (e.g., Senior or Junior advocates, other resources that the firm may use in executing the firm's expertise). 	30	<ul style="list-style-type: none"> ▪ Less than 5 years of experience to be outlined- 10 points. ▪ 5 or more years of experience to be outlined- 20 points. ▪ 15 years of experience to be outlined- 30 points.
Experience of Key Staff Lead Attorney (Team Leader) in the related area(s) of specialization (CV/Profiles to be attached)	<ul style="list-style-type: none"> ▪ Bidders must supply detailed CVs, company profiles, valid qualifications of the team to be allocated to PanSALB, and specific relevant assignments undertaken within organs of state, preferably within a Constitutional institution environment with contact details. 	30	<ul style="list-style-type: none"> ▪ Less than 5 years' experience i.e., total duration of professional activity- 10 points ▪ More than 5 years but less than 15 years' experience i.e., total duration of professional activity- 20 points ▪ More than 5 years but more than 15 years of experience i.e., total duration of professional activity- 30 points

Experience in comparative projects	<ul style="list-style-type: none"> Bidders must supply details of specific relevant assignments undertaken within organs of state, and preferably within a Constitutional institution environment with contact details. 	30	<ul style="list-style-type: none"> Two reference letters- 10 points Four reference letters- 20 points Six reference letters- 30 points
The Law firm's reach or ability to practice Nationally	<ul style="list-style-type: none"> Bidder must indicate footprint of presence Nationally or through its preferred correspondent attorneys in various areas of the country <i>provinces/ nationally</i> 	10	<ul style="list-style-type: none"> Footprint in 2-4 provinces- 3 points Footprint in 4-6 provinces- 5 points Footprint in 6-9 provinces- 10 points
Total points		100	
Minimum functionality qualifying score of 80 points			

Note:

- All bids that meet the 80% technical threshold will proceed to price evaluation. The price evaluation will be based on the submission of the price schedule as per paragraph 8 hereto above.
- Bids price points (paragraph 8) and specific points (paragraph 9.2.4) will be calculated for total points out of 100.
- It must be noted that the PanSALB reserves the right to conduct due diligence for the shortlisted bidders of which the PanSALB will request the latest reviewed and audited Annual Financial Statements for three years.

11. SUBMISSION OF BID DOCUMENTS

- 11.1. Bidders are advised to ensure that bids are submitted allowing sufficient time for any unforeseen events that may delay the delivery of the bid and time to access PanSALB premises.
- 11.2. All bidders are required to complete a bid register when submitting bid documents. The Bid register is available at the address indicated below.
- 11.3. Bidders should deposit their documents into the tender box available on the 5th Floor reception area by **18 APRIL 2024 at 12H00** am at the address below:

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12. BIDDERS DECLARATION

The bidder hereby declares the following:

We (I) confirm that _____(Bidder's Name) will: –

- a) Act honestly, fairly, and with due skill, care, and diligence, in the interests of PanSALB;
- b) Employ effectively the resources, procedures, and appropriate technological systems for the proper performance of the services;
- c) Act with circumspection and treat PanSALB fairly in a situation of conflicting interests;
- d) Comply with all applicable statutory or common law requirements applicable to the conduct of business;
- e) Make adequate disclosures of relevant material information including disclosures of actual or potential own interests, concerning dealings with PanSALB;
- f) Avoid fraudulent and misleading advertising, canvassing and marketing;
- g) Conduct business activities with transparency and consistently uphold the interests and needs of PanSALB as a client before any other consideration; and
- h) Ensure that any information acquired by the bidder(s) from PanSALB will not be used or disclosed unless the written consent of the client has been obtained to do so.

Signature_____ Date_____

Print Name of Signatory:_____

Designation: _____

FOR AND ON BEHALF OF: _____(Bidding Company's Name)

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